

CHAPTER 155: PORTABLE FUEL CONTAINER SPILLAGE CONTROL

SUMMARY: This regulation limits emissions of volatile organic compounds by requiring new portable fuel containers to meet performance standards for spill-proof systems.

1. **Applicability.** This regulation applies to any person in the State of Maine who sells, supplies, offers for sale, or manufactures portable fuel containers or spouts or both portable fuel containers and spouts.
2. **Definitions.**
 - A. **ASTM.** “ASTM” means the American Society for Testing and Materials.
 - B. **CARB.** “CARB” means the California Air Resources Board
 - C. **Consumer.** “Consumer” means any person who purchases or otherwise acquires a new portable fuel container or spout or both portable fuel container and spout for personal, family, household or institutional use. Persons acquiring a portable fuel container or spout or both portable fuel container and spout for resale are not “consumers” for that product.
 - D. **Distributor.** “Distributor” means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purpose of resale or distribution in commerce. This term does not include manufacturers, retailers, and consumers.
 - E. **Fuel.** “Fuel” means all fuels subject to any provision of Title 13, California Code of Regulations, Chapter 5, Standards for Motor Vehicle Fuels, Sections 2250-2298, except for Sections 2292.5, 2292.6, and 2292.7.
 - F. **Manufacturer.** “Manufacturer” means any person who imports, manufactures, assembles, produces, packages, repackages, or re-labels a portable fuel container or spout or both portable fuel container and spout.
 - G. **Nominal Capacity.** “Nominal capacity” means the volume indicated by the manufacturer that represents the maximum recommended filling level.
 - H. **Outboard Engine.** “Outboard engine” means a spark-ignition marine engine

that, when properly mounted on a marine watercraft in the operating position, houses the engine and drive unit external to the hull of the marine watercraft.

- I. **Permeation.** “Permeation” means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.
- J. **Portable Fuel Container.** “Portable fuel container” means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed or used primarily for receiving, transporting, storing, and dispensing fuel.
- K. **Retailer.** “Retailer” means any person who owns, leases, operates, controls, or supervises a retail outlet.
- L. **Retail Outlet.** “Retail outlet” means any establishment at which portable fuel containers or spouts or both portable fuel containers and spouts are sold, supplied, or offered for sale.
- M. **Spill-Proof Spout.** “Spill proof spout” means any spout that complies with all of the performance standards specified in Subsection 3B of this Chapter.
- N. **Spill-Proof System.** “Spill-proof system” means any configuration of portable fuel container and firmly attached spout that complies with all of the performance standards contained in Subsection 3A of this Chapter.
- O. **Spout.** “Spout” means any device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed.
- P. **Target Fuel Tank.** “Target fuel tank” means any receptacle that receives fuel from a portable fuel container.

3. **Performance Standards for Portable Fuel Containers and Spill-Proof Spouts.**

- A. Except as provided in Section 4 of this Chapter, no person shall sell, supply, offer for sale, or manufacture for sale in Maine on or after January 1, 2004, any portable fuel container or any portable fuel container and spout which, at the time of sale or manufacture, does not meet all of the following performance standards for spill-proof systems:
 - (1) Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows.

- (2) Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel.
 - (3) Has only one opening for both filling and pouring.
 - (4) Provides fuel flow rate and fill level of:
 - (a) Not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:
 - (i) Less than or equal to 1.5 gallons and fills to a level less than or equal to 1 inch below the top of the target fuel tank opening; or
 - (ii) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening if the spill-proof system clearly displays the phrase "Low Flow Rate" in type of 34 point or greater on each spill-proof system or label affixed thereto, and on the accompanying package, if any; or
 - (b) Not less than one gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or
 - (c) Not less than two gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons.
 - (5) Does not exceed a permeation rate of 0.4 grams per gallon per day.
 - (6) Is warranted by the manufacturer for a period of not less than one year against defects in materials and workmanship.
- B. Except as provided in Section 4 of this Chapter, no person shall sell, supply, offer for sale, or manufacture for sale in the State of Maine on or after January 1, 2004, any spout that, at the time of sale or manufacture, does not meet all of the following performance standards for spill-proof spouts:
- (1) Has an automatic shut-off that stops the fuel flow before the target fuel tank overflows.
 - (2) Automatically closes and seals when removed from the target fuel tank

and remains completely closed when not dispensing fuel.

- (3) Provides a fuel flow rate and fill level of:
 - (a) Not less than one-half gallon per minute for portable fuel containers with a nominal capacity of:
 - (i) Less than or equal to 1.5 gallons and fills to a level less than or equal to 1 inch below the top of three target fuel tank opening; or
 - (ii) Greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to one inch below the top of the target fuel tank opening if the spill-proof spout clearly displays the phrase “Low Flow Rate” in type of 34 point or greater on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto; or
 - (b) Not less than one gallon per minute for portable fuel containers with a nominal capacity greater than 1.5 gallons but less than or equal to 2.5 gallons and fills to a level less than or equal to 1.25 inches below the top of the target fuel tank opening; or
 - (c) Not less than two gallons per minute for portable fuel containers with a nominal capacity greater than 2.5 gallons.
 - (4) Is warranted by the manufacturer for a period of not less than one year against defects in materials and workmanship.
- C. The test procedures for determining compliance with the performance standards in this Section are set forth in Section 7 of this Chapter. The manufacturer of portable fuel containers or spouts or both portable fuel containers and spouts must perform the tests for determining compliance as set forth in Section 7 of this Chapter to show that its product meets the performance standards in this Section prior to allowing the product to be offered for sale in Maine. The manufacturer must maintain records of these compliance tests for as long as the product is available for sale in the State of Maine and make those test results available to the Department and/or EPA within 30 days of request.
- D. Compliance with the performance standards in this Section does not exempt spill-proof systems or spill-proof spouts from compliance with other applicable federal and state statutes and regulations such as state fire codes, safety codes, and other

safety regulations, nor will the Department test for or determine compliance with such other statutes or regulations.

- E. Notwithstanding the provisions of Subsections 3A and 3B of this Chapter, a portable fuel container or spout or both portable fuel container and spout manufactured before January 1, 2004 may be sold, supplied, or offered for sale until January 1, 2005 if the date of manufacture or a date code representing the date of manufacture is clearly displayed on the portable fuel container or spout.

4. Exemptions.

- A. This Chapter does not apply to safety cans meeting the requirements of Chapter 17, Title 29, Part 1926 Subpart F of the Code of Federal Regulations.
- B. This Chapter does not apply to portable fuel containers with a nominal capacity less than or equal to one quart.
- C. This Chapter does not apply to rapid refueling devices with nominal capacities greater than or equal to four gallons, provided such devices are designed for use in officially sanctioned off-highway motorcycle competitions or either create a leak-proof seal against a stock target fuel tank or are designed to operate in conjunction with a receiver permanently installed on the target fuel tank.
- D. This Chapter does not apply to portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and an outboard engine for the purpose of operating the outboard engine.

- 5. Innovative Products.** Any portable fuel container or spout or both portable fuel container and spout which has been granted an exemption by the California Air Resources Board (CARB) Portable Fuel Containers and Spouts Regulation under the Innovative Products provisions in Chapter 9 Article 6 Section 2467.4 of Title 13 of the California Code of Regulations, and EPA has approved such Innovative Products Exemption, shall be exempt from the standards in Section 3 of this Chapter for the period of time that the CARB Innovative Products Exemption remains in effect. Any manufacturer claiming such an exemption on this basis must submit to the Department and/or EPA upon request a copy of the CARB exemption decision (i.e., the Executive Order), including all conditions established by CARB applicable to the exemption.

6. Administrative Requirements.

- A. Each manufacturer of a portable fuel container or portable fuel container and spout subject to and complying with Subsection 3A of this Chapter must clearly display on each spill-proof system:

- (1) The phrase “Spill-Proof System”;
 - (2) A date of manufacture or representative code identifying the date of manufacture; and
 - (3) A representative code identifying the portable fuel container or portable fuel container and spout as subject to and complying with Subsection 3A of this Chapter.
- B. Each manufacturer of a spout subject to and complying with Subsection 3B must clearly display on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto:
- (1) The phrase “Spill-Proof Spout”;
 - (2) A date of manufacture or representative code identifying the date of manufacture; and
 - (3) A representative code identifying the spout as subject to and complying with Subsection 3B of this Chapter.
- C. Each manufacturer subject to Subsection 3A or 3B of this Chapter must file an explanation of both the date code and representative code with the Department no later than the later of three months after the effective date of this article or within three months of production, and within three months after any change in coding.
- D. Each manufacturer subject to Subsection 3A or 3B of this Chapter must clearly display a fuel flow rate on each spill-proof system or spill-proof spout, or label affixed thereto, and on any accompanying package.
- E. Each manufacturer of a spout subject to Subsection 3B of this Chapter must clearly display the make, model number, and size of only those portable fuel container(s) the spout is designed to accommodate and demonstrate compliance with Subsection 3B of this Chapter on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout, or a label affixed thereto.
- F. Manufacturers of portable fuel containers or portable fuel containers and spouts not subject to or not in compliance with Section 3 of this Chapter may not display the phrase “Spill-Proof system” or “Spill-Proof Spout” on the portable fuel container or spout, respectively, on any sticker or label affixed thereto, or on any accompanying package.

- G. Each manufacturer of a portable fuel container or spout or both portable fuel container and spout subject to and complying with Section 3 of this Chapter that due to their design or other features cannot be used to refuel all makes and models of on-road motor vehicle must clearly display the phrase “Not Intended For Refueling On-Road Motor Vehicles” in type of 34 point or greater on each of the following:
- (1) For a portable fuel container or portable fuel container and spout sold together as a spill-proof system, on the system or on a label affixed thereto, and on the accompanying packaging, if any; and
 - (2) For a spill-proof spout sold separately from a spill-proof system, on either the spill-proof spout, or a label affixed thereto, and on the accompanying packaging, if any.

7. Test Procedures.

- A. Testing to determine compliance with Section 3B of this Chapter shall be performed using the following test procedures:
- (1) “Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems and Spill-Proof Spouts,” adopted by CARB on July 6, 2000, and incorporated by reference herein.
 - (2) “Test Method 511, Automatic Closure Test Procedure For Spill-Proof Systems and Spill-Proof Spouts,” adopted by CARB on July 6, 2000, and incorporated by reference herein.
 - (3) “Test Method 512, Determination of Fuel Flow Rate For Spill-Proof Systems and Spill-Proof Spouts,” adopted by CARB on July 6, 2000, and incorporated by reference herein.
- B. Testing to determine compliance with Section 3A of this Chapter shall be performed using all test procedures in Subsection 7A, above and “Test Method 513, Determination Of Permeation Rate For Spill-Proof Systems,” adopted by CARB on July 6, 2000, and incorporated by reference herein.
- C. Alternative methods that are shown to be accurate, precise and appropriate may be used upon written approval of the Department and EPA.

- 8. Severability.** Each part of this Chapter is severable, and in the event that any part of this Chapter is held to be invalid, the remainder of the Chapter continues in full force and effect.

AUTHORITY: 38 M.R.S.A., Section 585, 585-A

EFFECTIVE DATE: July 1, 2003

AMENDED: July 14, 2004

BASIS STATEMENT

Portable fuel containers in Maine are responsible for an estimated 6.6 tons of volatile organic compound emissions per day. This rule is designed to maximize emission reductions from portable fuel containers, and will reduce volatile organic compound emissions by approximately 75%. Volatile organic compounds react with nitrogen oxides in the presence of sunlight to form ground level ozone, which is responsible for exacerbating a variety of respiratory ailments, such as asthma. In addition to reducing volatile organic compound emissions, the rule will also reduce public exposure to hazardous constituents present in gasoline, such as benzene, and reduce the amount of gasoline, and gasoline constituents spilled onto the ground or in the water while refueling.

During the public hearing on this proposal, the Board of Environmental Protection suggested the proposal be amended to eliminate an exemption allowing for the in-state manufacture of noncompliant portable fuel containers to be sold outside of Maine, and to simplify the innovative products exemption. The Department incorporated both of these changes, along with several technical amendments suggested by the U.S. Environmental Protection Agency.

In addition to the Basis Statement above, the Department has filed with the Secretary of State response to representative comments received during the comment period.

BASIS STATEMENT FOR JUNE 3, 2004 AMENDMENTS

These amendments correct an incorrect citation in the Innovative Products exemption contained in Section 5 of this Chapter. During the public comment period, the Department received comments from U.S. EPA suggesting additional clarifying language which was incorporated by the Department.

In addition to the Basis Statement above, the Department has filed with the Secretary of State its response to comments received during the comment period.